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STATE OF NEW YORK
COUNTY COURT : COUNTY OF TOMPKINS

In the Matter of the Application of
Cornell University to Unseal Records
from the Proceeding Captioned:

2007 Misc. Cr. 667

"People of the State of New York
vs.
Kevin Vanginderen"

Defendant.

MEMORANDUM DECISION AND ORDER

Pursuant to CPL §160.50(1)(d), Cornell University seeks unsealing of criminal records previously sealed by this Court in 1983, relative to the above referred action against Kevin Vanginderen. Mr. Vanginderen has filed a civil action against Cornell (now pending in the United States District Court, Southern District of California), involving causes of action for invasion of privacy and libel. The claims involve a publication on the Internet of the Cornell Chronicle on March 17, 1983, which republishes an account of Defendant's arrest on a charge of burglary.

Defendant opposes the motion, claiming that the United States District Court has sole authority at this stage of the proceedings to order such "discovery".

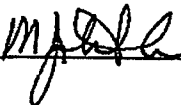
Pursuant to the provisions of CPL §160.50, this Court is authorized to unseal such records upon proper grounds. A civil action which places in issue the contents of the sealed records warrants unsealing of such records to a party in such action. Commercial Union Insurance Co. v. Jones, 216 AD2d 967 (4th Dept. 1995). There is no controlling authority that would require this Court to defer such a decision to any other state or federal court. These are New York sealed criminal records, governed specifically by the provisions of New York statutes.

Accordingly, the Court concludes that Cornell has provided sufficient grounds to grant the motion unsealing such records, held both by the Tompkins County District Attorney's Office, and the records held by the Cornell University Police, relative to the above-captioned criminal matter.

This Decision constitutes the Order of this Court, entered upon notice to all parties.

ENTER.

DATED: November 16, 2007

A handwritten signature in black ink, appearing to read "M. John Sherman", is written over a horizontal line.

**M. JOHN SHERMAN
TOMPKINS COUNTY JUDGE**